



**CITY OF EL PASO, TEXAS
BUILDING & PLANNING SERVICES**

MEMORANDUM

RECEIVED
CITY OF EL PASO
DECEMBER 8 2003

TO: The Honorable Mayor & City Council
Jim Martinez, Chief Administrative Officer
Adrian Ocegueda, Executive Assistant to the Mayor
Laura Uribarri, Executive Assistant to the Mayor

COPY TO: William A. Chapman, CAO for Financial Services
David R. Almonte, OMB Director
Lisa Elizondo, City Attorney
Theresa Cullen-Garney, Deputy City Attorney
George G. Sarmiento, Director of Planning
✓ Richarda Duffy Momsen, Municipal Clerk

FROM: Patricia D. Adaudo, Deputy CAO for Building & Planning Services

SUBJECT: City Council Agenda Item
Introduction, December 9, 2003
Public Hearing, December 22, 2003

P. Adaudo

DATE: December 5, 2003

The following item has been scheduled for City Council action as noted above.

An Ordinance creating Tax Increment Financing District Number Four (No. 4), City of El Paso; making findings of fact concerning the conditions of blight, residential property and assessed valuation within said district; creating a Tax Increment District Board of Directors and defining

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Mayor's Office (3 copies):	date: _____	time: _____	by: _____
Representative District 1:	date: _____	time: _____	by: _____
Representative District 2:	date: _____	time: _____	by: _____
Representative District 3:	date: _____	time: _____	by: _____
Representative District 4:	date: _____	time: _____	by: _____
Representative District 5:	date: _____	time: _____	by: _____
Representative District 6:	date: _____	time: _____	by: _____
Representative District 7:	date: _____	time: _____	by: _____
Representative District 8:	date: _____	time: _____	by: _____

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the powers, duties and terms of office thereof; providing for submission of a plan of improvements for said district; providing for duties of the Tax Assessor; setting the boundaries for said district; and providing a severability clause.

A tax increment financing district designation is proposed for a Town Centre Redevelopment Project, involving approximately 50 acres (former Farah building site) fronting Interstate Highway 10 near its intersection with Hawkins Blvd. A copy of the Preliminary Project Plan and Reinvestment Zone Financing Plan for the proposed Tax Increment Financing District No. 4 is attached as prepared by the Planning, Research & Development Department. Also attached are copies of the proposed ordinances. This memorandum supplements the packet of information provided on October 16, 2003 regarding the Town Centre Redevelopment Project. Should you have any questions or need additional information, I may be contacted at 541-4853.

DRAFT (12/4/03)
ORDINANCE NO. _____

AN ORDINANCE CREATING TAX INCREMENT FINANCING DISTRICT NUMBER FOUR (NO. 4), CITY OF EL PASO (50 ACRE SITE ON THE SOUTHEAST CORNER OF VISCOUNT AND HAWKINS BLVD.); MAKING FINDINGS OF FACT CONCERNING THE CONDITIONS OF BLIGHT, RESIDENTIAL PROPERTY AND ASSESSED VALUATION WITHIN SAID DISTRICT; CREATING A TAX INCREMENT FINANCING DISTRICT BOARD OF DIRECTORS AND DEFINING THE POWERS, DUTIES AND TERMS OF OFFICE THEREOF; PROVIDING FOR SUBMISSION OF A PLAN OF IMPROVEMENTS FOR SAID DISTRICT; PROVIDING FOR DUTIES OF THE TAX ASSESSOR; SETTING THE BOUNDARIES FOR SAID DISTRICT; AND PROVIDING A SEVERABILITY CLAUSE.

CITY OF EL PASO
CLERK OF COURTS
2003 DEC 5 10:11:16

WHEREAS, pursuant to Chapter 311 of the Texas Tax Code, the City may designate a contiguous geographic area within the City as a reinvestment zone if the area satisfied the requirements of certain sections of Chapter 311 of the Texas Tax Code; and

WHEREAS, the City has prepared a preliminary reinvestment zone financing plan, which provides that City of El Paso ad valorem taxes are to be deposited into the tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed zone; and

WHEREAS, the City provided written notice of the public hearing on the creation of the proposed zone, complying with the requirements of Chapter 311, Texas Tax Code, to the governing body of all taxing units levying taxes on property in the proposed zone; and

WHEREAS, a notice of the December 22, 2003, public hearing on the creation of the proposed zone was published on December 15, 2003, in the El Paso Times, a newspaper of general circulation in the City; and

WHEREAS, notice, pursuant to Section 311.03, Texas Tax Code was delivered to El Paso County, El Paso Independent School District, El Paso Community College District and the El Paso County Hospital District on October 21, 2003, satisfying the requirement in Section 311.003 that it receive sixty (60) days notice of the public hearing on the creation of the proposed zone; and

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WHEREAS, at the public hearing on December 22, 2003, interested persons were allowed to speak for or against the creation of the proposed zone, its boundaries, or the concept of tax increment financing; and owners of property in the proposed zone were given a reasonable opportunity to protest the inclusion of their property in the proposed zone; and

WHEREAS, evidence was received and presented at the public hearing in favor of the creation of the proposed zone under the provisions of Chapter 311, Texas Tax Code, and no one appeared or presented evidence in opposition to the creation of the proposed zone; and

WHEREAS, no owner of real property in the proposed zone protested the inclusion of their property in the proposed zone; and

WHEREAS, the City has provided all information, and made all presentations, given all notices and done all other things required by Chapter 311, Texas Tax Code, or other law as a condition to the creation of the proposed zone.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. Short Title.

This Chapter may be known and cited as the Tax Increment Finance District No. 4 Ordinance.

Section 2. Definition of Blight.

The City hereby adopts as a definition of blight for the purposes of enactment and carrying out of this ordinance the following standard. Blighted area shall mean any area which substantially arrests or impairs the sound growth of the City, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of: a substantial number of substandard, slum, deteriorated, or deteriorating structures; the predominance of defective or inadequate sidewalk or street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; the deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; or conditions that endanger life or property by fire or other cause, or any combination thereof. This definition shall not necessarily preclude use of other definitions of blight which the City Council may choose to adopt in conformance with other Federal, State, or local legislation, and shall be construed to extend only to programs carried out pursuant to this ordinance.

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Section 3. Findings of Fact Demonstrating Existence of a Blighted Area.

The City Council of the City of El Paso hereby makes the following findings of fact as to the existence of blighted conditions within the area described on Exhibit "A" attached hereto and incorporated herein by reference.

- 3.1. That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.
- 3.2. That the City Council further finds and declares that the proposed improvements in the zone will significantly enhance the value of all the taxable real property in the proposed zone and will be of general benefit to the City.
- 3.3. That the City Council further finds and declares that the proposed zone meets the criteria and requirements of Section 311.005 of the Texas Tax Code because the proposed zone substantially arrests or impairs the sound growth of the City and constitutes an economic and social liability and a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - (i) unsanitary or unsafe conditions; and
 - (ii) the deterioration of site or other improvements; and
 - (iii) conditions that endanger the life or property by fire or other cause; and
 - (iv) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality.

Section 4. Findings of Appropriate Residential Use Ratio.

The City Council of the City of El Paso hereby finds that there are no residential uses within the zone.

Section 5. Finding of Appropriate Property Assessment Ratios.

The City Council finds that the total appraised value of taxable real property in the Zone and in existing reinvestment zones is ____ percent which does not exceed 15% of the total appraised value of taxable property within the City of El Paso. The City Council finds that the boundaries of the zone do not contain more than 15 percent of the total appraised value of real property taxable by the County of El Paso, the El Paso Independent School District, the El Paso County Hospital District or the El Paso Community College District.

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Section 6. Determination of Tax Increment Finance District No. 4, City of El Paso, Texas, and Creation of the Boundaries Thereof.

The City Council hereby declares and finds that the existence of the conditions in Section 3, shows the necessary degree of blight for creation of a Tax Increment Finance District/Reinvestment Zone pursuant to Section 311.005, Tax Code, and further improvement of the area is likely to enhance significantly all the other real property in the District, and will be of general benefit to the City of El Paso, and so declares the area as shown on Map A, and described as Tax Increment Finance District No. 4, City of El Paso, Texas, such area as further described on Exhibit "A".

Section 7. Recordation.

The City Tax Office shall record the mark "TIF NO. 4" on each parcel which lies within the boundary of Tax Increment Finance District No. 4, City of El Paso, such mark to be placed on the City's assessment roll and attendant maps.

Section 8. Duties of the Tax Assessor/Collector.

The City Tax Assessor shall cause to have carried out by the Central Appraisal District, or by other appropriate means, the following acts:

- A. Determine the aggregate assessed value of the property in the District that appears on the City's assessment roll on the date the District is created and certify the value to the governing body of the City and the board of directors of the District. That value is the tax incremental base of the taxing unit;
- B. Identify on the assessment roll of the City those parcels of property which are within each existing tax increment finance district, specifying the name of each district;
- C. Compute the tax increment for the district according to the formula in B;
- D. Deposit in a special fund for the District all tax increments received in the District;
- E. Re-compute annually, and upon amendment of the District boundaries, the base and increment in accordance with Tax Code Section 311.012.

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Section 9. A Board of Directors for Tax Increment Finance District No. 4 is hereby established.

- 9.1 The Board of Directors of Tax Increment Finance District No. 4 shall be composed of eight (8) members, one each appointed by El Paso County, El Paso Independent School District, El Paso County Hospital District and El Paso Community College. The remaining four (4) members shall be appointed by the Mayor of the City of El Paso.
- 9.2 At the first meeting of the Board, the members will draw lots to determine the length of their initial terms on the Board. Four (4) members shall serve for one year terms commencing on the anniversary of the effective date of this Ordinance and the remaining members shall serve for two year terms. Each member of the Board may be reappointed for additional terms, but may not serve more than 6 years. A vacancy shall be filled for the unexpired term by the governing body of the taxing unit that appointed the director whose position was vacated.
- 9.3 Qualifications for Board Members. To be eligible to be named by the City Council, a person must be a qualified voter of the City of El Paso, or a person must be at least 18 years of age and own real property within the zone, whether or not the person resides in the City of El Paso, and such person must be a current member of the City Council of the City of El Paso.
- 9.4 Chairman. The Mayor shall appoint one member of the board who shall be the chairman. The Chairman's term shall be for one year beginning January 1.
- 9.5 Other Officers. The Board of Directors may elect a Vice-Chairman to preside in the absence of the Chairman, and other officers as it considers appropriate.
- 9.6 Executive Secretary. The Director of the Department of Economic Development, or his or her designee, shall serve as Executive Secretary to the Board of Directors.
- 9.7 Meetings, Bylaws and Minutes.
 - 9.7.1 The Board shall keep such meeting dates and times and operate by such bylaws and procedures as it, by majority vote, determines shall carry out the purposes of this Ordinance and Chapter 31 of the Texas Tax Code.

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- 9.7.2 The Board shall keep minutes of its meetings on file with the City Clerk and such other places as it deems necessary.

Section 10. Powers of the Board of Directors.

- 10.1 General Powers. The Board of Directors shall make recommendations to the City Council concerning the administration of Tax Code Chapter 311.

- 10.2 Specific Grant of Powers.

- 10.2.1 The Board of Directors shall have power to:

- a. Cause project plans consistent with Tax Code Section 311.011 to be prepared and submitted to the City Council for final approval.
- b. Make recommendations for the acquisition of real property and for the sale of that property, including the terms and conditions of sale.
- c. Enter into agreements as the Board considers necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes.

- 10.2.2 The following powers are reserved to the City Council:

- a. Issue bonds;
- b. impose taxes or fees;
- c. exercise the power of eminent domain; and
- d. give final approval to the project plan.

- 10.3 The City Council shall have all powers available to it pursuant to Texas Tax Code Sec. 311.008.

Section 11. Proceedings of the Board of Directors.

Proceedings of the Board shall be subject to the Open Meetings Act, Government Code Chapter 551, and the Open Records Act Government Code Chapter 552.

Section 12. Establishment of the Tax Increment Fund.

A Tax Increment Fund is established. The Tax Collector of the City shall collect all property taxes levied by the City and all other taxing units, other than the El Paso County Hospital District, on taxable real property in the zone commencing with the first payment of taxes levied by the City or other taxing units subsequent to the time the reinvestment zone takes effect and after the tax increment base has been determined

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and after deducting costs of collection shall allocate the taxes in accordance with the act as follows:

- A. Amount of real property tax calculated in accordance with Texas Tax Code Section 311.012 produced from the tax increment base shall be paid to the city and all other taxing units;
- B. There shall next be allocated and paid over to the City and all other taxing units and tax increments which are by contract executed prior to the designation of the area as a reinvestment zone, required to be paid over by the City or other taxing unit;
- C. There shall next be deposited into the Tax Increment Fund established for the zone all tax increments produced from the captured appraised value of taxable real property in the zone;
- D. After all expenses of administration and operation of the zone and all project costs and all tax increment bonds or notes issued for a reinvestment zone have been paid, and subject to any agreement with bondholders, if there is any money in the fund, it shall be paid over to the City and other taxing units levying taxes on property within the zone in amounts that reflect the respective share of total tax increments resulting from taxable real property in a reinvestment zone that were deposited in the fund during the fund's existence.

Section 13. Termination Date.

Tax Increment Zone No. 4 shall terminate on the earlier of the date on which all project costs, tax increment bonds, and interest on those bonds have been paid in full or December 31, 2033.

Section 14. Annual Report.

On or before the 90th day following the end of the fiscal year of the City of El Paso, the City Council shall submit to the chief executive officer of each taxing unit that levies real property taxes in the zone a report on the status of the zone.

14.1 The report shall include:

- (1) the amount and source of revenue in the Tax Increment Fund established for the zone;
- (2) the amount and purpose of expenditures from the Tax Increment Fund;
- (3) the amount of principal and interest due on outstanding bonded indebtedness;

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- (4) the tax increment base and current captured appraised value retained by the zone; and
- (5) the captured appraised value shared by the municipality and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City Council.

14.2 A copy of the report shall be sent to the Attorney General and the State Comptroller.

Section 15. Severability.

The terms and provisions of this ordinance are several and shall be governed by Chapter of the Code of the City of El Paso as amended.

Section 17. Effective Date.

This Ordinance shall be in full force and effect upon the date of its passage.

Read, Adopted and Approved this 22nd day of December 2003.

CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Sylvia Borunda Firth
Assistant City Attorney

APPROVED AS TO CONTENT:

Patricia D. Adauto
Deputy CAO for Building and Planning
Services

EXHIBIT A

Property Description

PARCEL 1: (Fee)

A parcel of land containing 43.212 acres, more or less, being portions of Lots 1, 4 and 5, Block 1, FARAH SUBDIVISION, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 29, Page 26, Real Property Records, El Paso County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at a set 1/2 inch rebar with cap (TX 2027) from which the city monument at the center line intersection of Viscount Boulevard and Shaver Street bears the following six courses:

North 28°21'26" East, 188.54 feet (188.83 feet, deed);

North 70°24'52" West, 18.70 feet;

North 35°20'08" East, 518.07 feet (519.50 feet, deed);

South 70°24'52" East, 144.54 feet (142.95 feet, deed);

North 19°35'08" East, 440.01 feet;

South 70°24'52" East (South 70°25'09" East, deed), 40.08 feet;

THENCE, South 55° 29' 18" East, a distance of 33.25 feet to a set concrete nail with shiner;

THENCE, South 30° 00' 18" East, a distance of 103.50 feet to a set concrete nail with shiner;

THENCE, South 54° 07' 48" East, a distance of 808.64 feet to a point in the East line of said Lot 5;

THENCE, along said East line, South 35° 52' 38" West, a distance of 0.60 feet to a found 5/8 inch rebar;

THENCE, South 53° 51' 15" East, a distance of 90.16 feet to a found railroad spike from which the city monument at the center line intersection of Larry Mahan and Saddle Bronc bears South 64° 28' 24" East, a distance of 386.16 feet;

THENCE, South 35° 52' 12" West, a distance of 677.49 feet (678.39 feet, deed) to a found 5/8 inch rebar with SLI cap in the northeasterly right-of-way line of Gateway

West of Interstate Highway 10 from which a city monument at the intersection of said Gateway West and Larry Mahan bears South 48° 08' 40" East, a distance of 382.09 feet;

THENCE, along said northeasterly right-of-way line of Gateway West the following two courses:

North 54° 07' 22" West, 1150.73 feet (1152.62 feet, deed);

North 61° 38' 34" West, a distance of 1411.06 feet (1410.70 feet, deed) to a found 1/2 rebar at the Southeast corner of Lot 3, said block 1 from which a found brass cap on the northerly right-of-way line of said Gateway West bears South 61° 38' 34" East, a distance of 86.79 feet;

THENCE, along the East line of said Lot 3, North 28° 21' 26" East, a distance of 530.00 feet to a set concrete nail with shiner at the Northeast corner of said Lot 3;

THENCE, along the North line of said Lot 3, the following four courses:

North 61° 38' 34" West, a distance of 59.00 feet to a set 1/2 inch rebar with cap (TX 2027) at the beginning of a curve to the left;

Along the arc of said curve (Delta Angle = 10° 26' 00", Radius = 1179.85 feet, Chord = North 66° 51' 34" West, 214.55 feet) a distance of 214.85 feet a point at the beginning of a curve to the right;

Along the arc of said curve (Delta Angle = 10° 26' 00", Radius = 1239.85 feet, Chord = North 66° 51' 34" West, 225.46 feet close) a distance of 225.77 feet to a set 1/2 inch rebar with cap (TX 2027);

North 61° 38' 34" West, a distance of 41.90 feet (42.05 feet, deed) in the east right-of-way line of Hawkins Boulevard (120 feet wide) at the Northwest corner of said Lot 3;

THENCE, along the East right-of-way line of said Hawkins Boulevard, North 28° 19' 19" East, a distance of 66.68 feet to a point from which a found concrete nail bears South 58° 25' 53" West, 0.8 feet and a found X in concrete bears North 03° 14' 48" East, 1.4 feet;

THENCE, leaving said East right-of-way line, South 61° 40' 41" East, a distance of 42.09 feet to a set concrete nail with shiner at the beginning of a curve to the left;

THENCE, along the arc of said curve (Delta Angle = 10° 25' 59", Radius = 1173.17 feet, Chord = South 66° 51' 34" East, 213.33 feet) a distance of 213.63 feet to set X in concrete;

THENCE, South 85° 40' 41" East, a distance of 186.42 feet (186.29 feet, deed) in the East line of Lot 4;

THENCE, along said East line, South 28° 19' 19" West, a distance of 1.62 feet (1.55 feet, deed) to a point;

THENCE, leaving said East line, South 61° 40' 41" East, a distance of 27.43 feet (27.70 feet, deed) to a point;

THENCE, North 28° 19' 19" East, a distance of 1.55 feet to a point;

THENCE, South 61° 38' 34" East, a distance of 31.61 feet (32.00 feet, deed);

THENCE, North 28° 19' 19" East, a distance of 126.94 feet (124.12 feet, deed) to a set concrete nail with shiner;

THENCE, North 73° 20' 23" East, a distance of 14.14 feet to a set concrete nail with shiner;

THENCE, South 61° 38' 34" East, a distance of 789.92 feet (778.75 feet, deed) to a set concrete nail with shiner;

THENCE, South 28° 21' 26" West, a distance of 107.99 feet (105.37 feet, deed) to a set concrete nail with shiner;

THENCE, South 61° 38' 34" East, a distance of 95.00 feet to a set X in concrete;

THENCE, South 28° 21' 26" West, a distance of 38.00 feet to a set X in concrete;

THENCE, South 61° 38' 34" East, a distance of 788.75 feet to a set 1/2 inch rebar with cap (TX 2027);

THENCE, North 28° 21' 26" East, a distance of 54.53 feet (54.23 feet, deed) to the POINT OF BEGINNING and containing 43.212 acres of land.

Bearings are based on the Farah Subdivision Plat, Recorded in Book 29, Page 26, El Paso County Plat Records.

PARCEL 2: (Fee)

Undivided one-half 1/2 interest only in portion of Lot 5, Block 1, FARAH SUBDIVISION, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 29, Page 26, Real Property Records, El Paso County, Texas (Tank and Pump Site), being more particularly described as follows:

Beginning at a point located North 35° 20' 04" East a distance of 152.14 feet, thence North 28° 21' 26" East a distance of 325.98 feet, thence North 67° 49' 34" West a

distance of 689.79 feet from the southwest corner of Lot 10, Block 1, Farah Subdivision, First Supplemental Map, City of El Paso, El Paso County, Texas:

Thence South 28° 21' 26" West a distance of 65.00 feet;

Thence North 61° 34' 34" West a distance of 123.00 feet;

Thence North 28° 31' 30" East a distance of 51.69 feet;

Thence South 67° 49' 34" East a distance of 123.57 feet to the point of beginning.

Described parcel lies entirely within said Block 1, Farah Subdivision, First Supplemental Map and contains 7171.55 square feet equal to 0.165 acres.

EXHIBIT B

A 6.986 acre portion, more or less, out of Lots 1 and 5, Block 1, FARAH SUBDIVISION, an addition to the City of El Paso, El Paso County, Texas, according to the map thereof on file in Book 29, Page 26, Plat Records, El Paso County, Texas, and being more particularly described as follows:

Beginning at a point on the southerly lot line of Lot 10, Block 1, Farah Subdivision; point being located North 70°-24'-52" West a distance of 40.08 feet, then South 19°-35'-08" West a distance of 440.01 feet, then North 70°-24'-52" West a distance of 142.93 feet, then South 33°-20'-08" West a distance of 519.30 feet, then South 70°-24'-52" East a distance of 18.70 feet from a City of El Paso monument located at the intersection of the center line of Shaver Drive with the center line of Vincent Boulevard, City of El Paso, El Paso County, Texas;

Thence South 70°-24'-52" East along said southerly lot line a distance of 681.30 feet to its southeast corner;

Thence South 21°-44'-27" East a distance of 363.67 feet;

Thence South 35°-32'-38" West a distance of 224.96 feet;

Thence North 54°-07'-48" West a distance of 808.64 feet;

Thence North 30°-00'-18" West a distance of 103.30 feet;

Thence North 55°-29'-13" West a distance of 33.73 feet;

Thence North 28°-21'-26" East a distance of 188.83 feet to the point of beginning.

Described parcel lies within Lots 1 and 5, Block 1, Farah Subdivision in said El Paso County, Texas and contains 104311.35 square feet equal to 6.986 acres.